IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.6112 OF 2004

Bajaj Electricals Ltd., Pune).. Petitioner

Versus

Bajaj Electricals Kamgar Sangathana).. Respondent

Mr.A.D.Patwardhan for the Petitioner.
Mr.N.A.Kulkarni for the Respondent.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 9TH AUGUST 2004

P.C.:

. The Industrial Court, Pune has rejected the application made by the Petitioner to decide the issue of whether there is a lockout in the establishment attracting the provisions of Item 6 of Schedule II of the Maharahstra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 as a preliminary issue. The Industrial Court has held that all issues, whether there is lockout or the alternate issue whether there is a closure, can be decided together. The submission made on behalf of the Petitioner is that in view of the judgment of the Division Bench of this Court in *Maharashtra General Kamgar Union and others* vs. *Balkrishna Pen Pvt. Ltd. and others*, **1987 II CLR 374**, the Industrial Court should decide the issue of lockout as a preliminary issue so that the proceedings will not

be delayed.

2. I am unable to accept the submission made on behalf of the Petitioner. The Industrial Court can always decide whether there is a lockout or a closure by considering all issues together. The consequences of a declaration of an unfair labour practice being committed under Item 6 of Schedule II will obviously be considered by the Industrial Court while granting such a declaration. However, if the Industrial Court come to the conclusion that there is no lockout but a closure of the establishment, as pleaded by the Petitioner, the Industrial Court will be able to decide the question as to whether in fact there is an illegal closure if the provisions of Section 25-O of the Industrial Disputes Act, 1947 have not been complied with. All these issues can be decided by the Industrial Court together. No prejudice at all would be caused to the Petitioner if this procedure is adopted by the Industrial Court. Writ Petition rejected.

3. Parties to act on an authenticated copy of this order.